

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TIMOTHY WILEY, and DYLAN
LEAFTY,

Plaintiffs,

vs.

ROSETTA MCALLISTER, RN; and
JESSE N., Patient;

Defendants.

8:20CV265

MEMORANDUM AND ORDER

This matter is before the court on Plaintiff Timothy Wiley’s (“Wiley”) Motion for Leave to Proceed In Forma Pauperis (“IFP”) (filing 6) and what the court construes as a motion to sever (filing 7).

On July 6, 2020, Wiley filed his Complaint in this matter along with his co-Plaintiff Dylan Leafy (“Leafy”). (Filing 1.) Wiley and Leafy also submitted a joint Motion for Leave to Proceed IFP. (Filing 2.) On July 10, 2020, the court denied the joint IFP motion and ordered Wiley and Leafy to file separate motions for leave to proceed IFP or, alternatively, to pay the filing fee. (Filing 5.) On July 20, 2020, Wiley filed his IFP motion and a motion asking the court to separate Wiley and Leafy from proceeding together in this lawsuit.

Upon review of Wiley’s IFP motion, the court finds that Wiley is financially eligible to proceed in forma pauperis.

With respect to Wiley’s motion to sever Leafy as a co-Plaintiff in this matter, the court finds that Wiley’s motion should be granted. Leafy has failed to file a separate motion to proceed IFP as ordered by the court on July 10, 2020, and

the court will, therefore, dismiss Leafy as a plaintiff in this action for failure to comply with the court's orders.

IT IS THEREFORE ORDERED that:

1. Wiley's motion for leave to proceed in forma pauperis (filing 6) is granted, and the Complaint shall be filed without payment of fees.
2. Wiley's motion to sever (filing 7) is granted.
3. Leafy is dismissed from this action without prejudice for want of prosecution and for failure to comply with an order from this court.
4. The clerk of the court is directed to remove Dylan Leafy as a plaintiff in this matter.
5. Wiley is advised that the next step in his case will be for the court to conduct an initial review of his claims to determine whether summary dismissal is appropriate under 28 U.S.C. § 1915(e)(2). The court will conduct this initial review in its normal course of business.

Dated this 31st day of August, 2020.

BY THE COURT:

Richard G. Kopf
Richard G. Kopf
Senior United States District Judge